

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PETER ANDREW FELICIANO,

CV. 06-225-ST

Petitioner,

ORDER

v.

CHARLES A. DANIELS,

Respondent.

STEWART, Magistrate Judge.

Petitioner, an inmate at FCI-Sheridan, filed this habeas corpus action pursuant to 28 U.S.C. § 2241 seeking to challenge a guilty plea he entered in the District of Hawaii in 2001. On March 28, 2006, the court ordered petitioner to show cause why this case should not be dismissed for lack of jurisdiction. The court specifically advised petitioner that in order to proceed, he must describe why the 28 U.S.C. § 2255 remedy is inadequate or ineffective to test the legality of his detention.

Petitioner timely responded to the Order to Show Cause and asserts that he is challenging the legality of his Armed Career

Criminal Act conviction based on a recent Supreme Court decision. He represents that he has an available remedy pursuant to 28 U.S.C. § 2255, and that such a filing would be timely. He advises that "this court may transfer this petition in the exercise of it's (sic) discretion and in the furtherance of justice." Response (docket #5), p. 2.

As petitioner represents that the § 2255 remains available to address the legality of his conviction, the court elects to treat the § 2241 Petition as a § 2255 motion and transfer it to the District of Hawaii. See 28 U.S.C. § 1406(a) (In the interests of justice, a federal court may transfer a case filed in an improper district to the correct district).

CONCLUSION

The court construes petitioner's 28 U.S.C. § 2241 Petition as a 28 U.S.C. § 2255 motion. The Clerk of the Court is DIRECTED TO TRANSFER this case to the District of Hawaii.

IT IS SO ORDERED.

DATED this 2nd day of May, 2006.

/s/ Janice M. Stewart

Janice M. Stewart
United States Magistrate Judge